

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1492
Committee Substitute Favorable 6/17/98
Committee Substitute #2 Favorable 7/2/98

Short Title: Rural Infrastructure Bonds.

(Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
2 OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE
3 STATE, TO ADDRESS STATEWIDE RURAL INFRASTRUCTURE NEEDS BY
4 PROVIDING FUNDS (1) FOR GRANTS AND LOANS TO LOCAL
5 GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER
6 COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND
7 WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR
8 GRANTS, LOANS, OR OTHER FINANCING TO PUBLIC OR PRIVATE
9 ENTITIES FOR CONSTRUCTION OF NATURAL GAS FACILITIES.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. Short title. This act shall be known as the "Rural Infrastructure
13 Bond Act of 1998".

14 Section 2. Purpose. It is the intent of the General Assembly by this act to
15 provide for the issuance of general obligation bonds of the State and to provide that the
16 proceeds realized from the sale of the bonds shall be allocated as follows:

17 (a) Clean Water Bonds.

- 1 (1) \$465,000,000 to provide State matching funds required to receive
2 federal wastewater or water supply assistance funds and to provide
3 additional funding for the Clean Water Revolving Loan and Grant Fund
4 established in Chapter 159G of the General Statutes or to provide
5 funding by grants to local government units for wastewater treatment
6 and water supply and distribution needs;
- 7 (2) \$320,000,000 to provide loans to local government units to finance all
8 or a portion of the cost of construction, improvements, enlargements,
9 extensions, and reconstruction of water supply and distribution systems,
10 wastewater collection systems, wastewater treatment works, water
11 conservation projects, and water reuse projects.

12 The funds to be derived from the sale of the Clean Water Bonds
13 authorized by this act are sufficient to meet no more than a fraction of
14 the needs that now exist and will arise in the immediate future. For this
15 reason, although public necessity, the criteria established by Chapter
16 159G of the General Statutes, and the guidelines established by the
17 United States Environmental Protection Agency Hardship Grants
18 Program shall be the primary consideration in granting and loaning
19 funds, great emphasis shall also be placed on the creation of efficient
20 systems of regional wastewater disposal and regional water supply and
21 on the willingness and ability of local government units to meet their
22 responsibilities through sound fiscal policies, creative planning, and
23 efficient operation and management.

24 (b) Natural Gas Bonds.

25 \$215,000,000 to provide grants, loans, or other financing to natural gas
26 local distribution companies, persons seeking natural gas distribution
27 franchises, State or local government agencies, or other entities for
28 construction of natural gas facilities.

29 Section 3. Definitions. As used in this act, unless the context otherwise
30 requires:

- 31 (1) "Bond rating" means the numerical rating of a unit of local government
32 developed by the NCMC. The rating formula is based on 100 being a
33 theoretically "perfect" unit of local government and is an assessment of
34 the creditworthiness of the unit. Units of local government with a rating
35 below 75 or with no ratings have limited, if any, access to the private
36 markets for financing water and sewer or other debt.
- 37 (2) "Bonds" means bonds issued under this act.
- 38 (3) "Capacity grant" means a grant awarded by the Rural Economic
39 Development Center to a local government unit to pay all or a portion of
40 the cost associated with the planning and writing of a grant or loan
41 application, a capital improvement plan, or other efforts that support
42 growth and development of rural areas.

1 (4) "Capital improvement plan" means a report that identifies water and
2 sewer infrastructure and capital needs that address planned and strategic
3 growth. It shall include an assessment of current water and wastewater
4 systems and a projection of those infrastructure needs over a 20-year
5 horizon. The report shall take into consideration government mandates,
6 usefulness of the improvements to the community and the effect on both
7 short and long-term operation and maintenance of the scheduled
8 improvements and identifies alternatives for meeting the identified need
9 including regionalization, consolidation and system mergers, water
10 reuse and conservation.

11 (5) "Clean Water Revolving Loan and Grant Act" means Chapter 796 of the
12 1987 Session Laws, as amended from time to time, codified as Chapter
13 159G of the General Statutes.

14 (6) "Clean Water Revolving Loan and Grant Fund" means the Clean Water
15 Revolving Loan and Grant Fund as defined in the Clean Water
16 Revolving Loan and Grant Act.

17 (7) "Cost" means, without intending thereby to limit or restrict any proper
18 definition of this term in financing the cost of facilities or purposes
19 authorized by this act:

- 20 a. The cost of constructing, reconstructing, enlarging, acquiring,
21 and improving facilities, and acquiring equipment and land
22 therefor,
- 23 b. The cost of engineering, architectural, and other consulting
24 services as may be required,
- 25 c. Administrative expenses and charges,
- 26 d. Finance charges and interest prior to and during construction and,
27 if deemed advisable by the State Treasurer, for a period not
28 exceeding two years after the estimated date of completion of
29 construction,
- 30 e. The cost of bond insurance, investment contracts, credit
31 enhancement and liquidity facilities, interest-rate swap
32 agreements or other derivative products, financial and legal
33 consultants, and related costs of bond and note issuance, to the
34 extent and as determined by the State Treasurer,
- 35 f. The cost of reimbursing the State for any payments made for any
36 cost described above, and
- 37 g. Any other costs and expenses necessary or incidental to the
38 purposes of this act.

39 Allocations in this act of proceeds of bonds to the costs of a project or
40 undertaking in each case may include allocations to pay the costs set
41 forth in items c., d., e., f., and g. in connection with the issuance of
42 bonds for the project or undertaking.

- 1 (8) "Credit facility" means an agreement entered into by the State Treasurer
2 on behalf of the State with a bank, savings and loan association, or other
3 banking institution, an insurance company, reinsurance company, surety
4 company, or other insurance institution, a corporation, investment
5 banking firm, or other investment institution, or any financial institution
6 or other similar provider of a credit facility, which provider may be
7 located within or without the United States of America, such agreement
8 providing for prompt payment of all or any part of the principal or
9 purchase price (whether at maturity, presentment or tender for purchase,
10 redemption, or acceleration), redemption premium, if any, and interest
11 on any bonds or notes payable on demand or tender by the owner, in
12 consideration of the State agreeing to repay the provider of the credit
13 facility in accordance with the terms and provisions of such agreement.
- 14 (9) "Economically depressed area" means any of the following:
- 15 a. An economically distressed county as defined in G.S. 143B-
16 437.01.
- 17 b. That part of a rural county whose poverty rate is at least one
18 hundred fifty percent (150%) of the State poverty rate. For the
19 purpose of this section, the poverty rate is the percentage of the
20 population with income below the latest annual federal poverty
21 guidelines issued by the United States Department of Health and
22 Human Resources.
- 23 c. That part of a rural county that experiences an actual or imminent
24 loss of manufacturing jobs in a number that is equal to or exceeds
25 five percent (5%) of the total number of manufacturing jobs in
26 the part.
- 27 (10) "Local government units" means local government units as defined in
28 the Clean Water Revolving Loan and Grant Act.
- 29 (11) "NCMC" means the North Carolina Municipal Council, Inc., a nonprofit
30 North Carolina corporation which provides bond ratings, or any
31 successor thereto. In the event such corporation dissolves or no longer
32 performs the functions contemplated herein, such term shall mean that
33 comparable corporation designated by the State Treasurer.
- 34 (12) "Notes" means notes issued under this act.
- 35 (13) "Par formula" means any provision or formula adopted by the State to
36 provide for the adjustment, from time to time, of the interest rate or rates
37 borne by any bonds or notes, including:
- 38 a. A provision providing for such adjustment so that the purchase
39 price of such bonds or notes in the open market would be as close
40 to par as possible,
- 41 b. A provision providing for such adjustment based upon a
42 percentage or percentages of a prime rate or base rate, which

- 1 percentage or percentages may vary or be applied for different
2 periods of time, or
- 3 c. Such other provision as the State Treasurer may determine to be
4 consistent with this act and will not materially and adversely
5 affect the financial position of the State and the marketing of
6 bonds or notes at a reasonable interest cost to the State.
- 7 (14) "Rural county" means a county with a density of fewer than 200 people
8 per square mile based on the United States census.
- 9 (15) "Rural Economic Development Center" means the Rural Economic
10 Development Center, Inc., a nonprofit North Carolina corporation, or
11 any successor thereto. In the event such corporation dissolves or no
12 longer performs the functions contemplated herein, such term shall
13 mean that comparable corporation designated by the Governor.
- 14 (16) "State" means the State of North Carolina.
- 15 (17) "Supplemental grant" means a grant awarded by the Rural Economic
16 Development Center to a local government unit to assist in financing
17 wastewater collection systems, wastewater treatment works, water
18 conservation projects, water reuse projects, or water supply systems.
19 Supplemental grant funds shall supplement other funding and shall not
20 represent more than fifty percent (50%) of the total costs of the
21 wastewater collection systems, wastewater treatment works, water
22 conservation projects, water reuse projects, or water supply systems
23 financed.
- 24 (18) "Unsewered communities" means those communities lacking
25 centralized, publicly owned wastewater treatment collection systems
26 and wastewater treatment works.
- 27 (19) "Wastewater collection systems" means wastewater collection systems
28 as defined in the Clean Water Revolving Loan and Grant Act.
- 29 (20) "Wastewater treatment works" means wastewater treatment works as
30 defined in the Clean Water Revolving Loan and Grant Act.
- 31 (21) "Water conservation projects" include, but are not limited to, any
32 construction, repair, renovation, expansion, replacement of components,
33 or other capital improvement, including related equipment and land
34 acquisition, designed to:
- 35 a. Eliminate the wasteful or unnecessary use or loss of water in the
36 operations of a wastewater collection system, wastewater
37 treatment works, or water supply system; or
- 38 b. Enhance the operation of a wastewater collection system,
39 wastewater treatment works, or water supply system to provide a
40 more efficient use of water.
- 41 (22) "Water Pollution Control Revolving Fund" means the fund described by
42 G.S. 159G-4(a) and G.S. 159G-5(c).

1 (23) "Water reuse" means the actual use or application of treated wastewater
2 in or on areas which require water but do not require potable water
3 quality.

4 (24) "Water supply systems" means water supply systems as defined in the
5 Clean Water Revolving Loan and Grant Act.

6 Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject
7 to a favorable vote of a majority of the qualified voters of the State who vote on the
8 question of issuing Clean Water Bonds in the election called and held as provided in this
9 act, the State Treasurer is hereby authorized, by and with the consent of the Council of
10 State, to issue and sell, at one time or from time to time, general obligation bonds of the
11 State to be designated "State of North Carolina Clean Water Bonds", with any additional
12 designations as may be determined to indicate the issuance of bonds from time to time, or
13 notes of the State as provided in this act, in an aggregate principal amount not exceeding
14 seven hundred eighty-five million dollars (\$785,000,000) for the purpose of providing
15 funds, with any other available funds, for the purposes authorized in this act.

16 (b) Natural Gas Bonds. Subject to a favorable vote of a majority of the
17 qualified voters of the State who vote on the question of issuing Natural Gas Bonds in the
18 election called and held as provided in this act, the State Treasurer is hereby authorized,
19 by and with the consent of the Council of State, to issue and sell, at one time or from time
20 to time, general obligation bonds of the State to be designated "State of North Carolina
21 Natural Gas Bonds", with any additional designations as may be determined to indicate
22 the issuance of bonds from time to time, or notes of the State as provided in this act, in an
23 aggregate principal amount not exceeding two hundred fifteen million dollars
24 (\$215,000,000) for the purpose of providing funds, with any other available funds, for the
25 purposes authorized in this act.

26 Section 5. Uses of bond and note proceeds. (a) Clean Water Bonds. The
27 proceeds of Clean Water Bonds and notes shall be used for the purpose of making loans
28 and grants to local governments as follows:

29 (1) The proceeds of three hundred fifty-five million dollars (\$355,000,000)
30 of Clean Water Bonds shall be used by the Department of Environment
31 and Natural Resources to provide State matching funds required to
32 receive federal wastewater or water supply assistance funds, for grants
33 to local government units for the same purposes for which funds in the
34 Clean Water Revolving Loan and Grant Fund may be used, and for
35 grants to fund hardship projects in accordance with the guidelines
36 established by the United States Environmental Protection Agency
37 Hardship Grants Program. The grants shall be made for the purpose of
38 paying the cost of water supply systems, wastewater collection systems,
39 and wastewater treatment works, water conservation projects, and water
40 reuse projects.

41 Of the proceeds of the three hundred fifty-five million dollars
42 (\$355,000,000) referred to in this Section 5(a)(1) above, the sum of

1 three hundred million dollars (\$300,000,000) shall be allocated as
2 follows:

3 a. High-Unit Cost Wastewater Account

- 4 1. Reserved for grants to local government units whose bond
5 rating is less than 75 or who have no bond rating
6 \$70,000,000
- 7 2. Reserved for grants to local government units whose bond
8 rating is 75 or greater \$80,000,000

9 b. High-Unit Cost Water Supply Account

- 10 1. Reserved for grants to local government units whose bond
11 rating is less than 75 or who have no bond rating
12 \$70,000,000
- 13 2. Reserved for grants to local government units whose bond
14 rating is 75 or greater \$80,000,000

15 The proceeds may be (i) transferred directly to the Clean Water
16 Revolving Loan and Grant Fund to make grants, (ii) used to make
17 grants directly to the appropriate local government qualifying for a grant
18 from the Clean Water Revolving Loan and Grant Fund, (iii) used for
19 any combination of (i) and (ii), or (iv) used in such other manner as
20 shall effectuate the clean water purposes of this act.

21 The funds to be derived from the sale of the Clean Water Bonds
22 authorized by this act are sufficient to meet no more than a fraction of
23 the needs that now exist and will arise in the immediate future. For this
24 reason, although public necessity, the criteria established by Chapter
25 159G of the General Statutes, and the guidelines established by the
26 United States Environmental Protection Agency Hardship Grants
27 Program shall be the primary consideration in granting and loaning
28 funds, great emphasis shall also be placed on the creation of efficient
29 systems of regional wastewater disposal and regional water supply and
30 on the willingness and ability of local government units to meet their
31 responsibilities through sound fiscal policies, creative planning, and
32 efficient operation and management, and on having a capital
33 improvement plan.

34 Of the proceeds of the three hundred fifty-five million dollars
35 (\$355,000,000) referred to in this Section 5(a)(1) above, the sum of
36 thirty-five million dollars (\$35,000,000) shall be used to provide State
37 funds necessary for the 1999-2000, 2000-2001, 2001-2002, 2002-2003,
38 and 2003-2004 fiscal years to match the federal wastewater or water
39 supply assistance funds deposited in the Water Pollution Control
40 Revolving Fund or another fund that is used to pay the cost of water
41 supply systems, wastewater collection systems, or wastewater treatment
42 works and is eligible to receive federal matching funds, unless the
43 General Assembly has provided the required match through other

1 sources, in which event this priority shall cease to exist to the extent of
2 the availability of the other sources. The Department of Environment
3 and Natural Resources shall certify to the State Treasurer the amount of
4 funds required for the State match for each of the fiscal years ending
5 June 30, 1999, June 30, 2000, June 30, 2001, June 30, 2002, June 30,
6 2003, and June 30, 2004, and the extent to which the General Assembly
7 has provided other funds for this purpose. Upon certification each year
8 of the amount of funds required for the State match for that fiscal year,
9 the State Treasurer may issue from the thirty-five million dollars
10 (\$35,000,000) the amount certified up to thirty-five million dollars
11 (\$35,000,000). Upon certification for the State match required for the
12 fiscal year ending June 30, 2004, the State Treasurer may issue the
13 remaining balance of the thirty-five million dollars (\$35,000,000) of the
14 Clean Water Bonds authorized by this subdivision for the purpose of
15 funding the State match for that fiscal year and for any other purposes
16 authorized by this subdivision. The proceeds of the bonds necessary for
17 the State match for each fiscal year shall be deposited in the Water
18 Pollution Control Revolving Fund or another appropriate fund or
19 account determined by the State Treasurer.

20 Of the proceeds of the three hundred fifty-five million dollars
21 (\$355,000,000) referred to in this Section 5(a)(1) above, the sum of
22 twenty million dollars (\$20,000,000) shall be used to provide hardship
23 grants to eligible local government units to assist with wastewater
24 treatment works and wastewater collection systems. Such grants shall
25 be awarded and administered by the Department of Environment and
26 Natural Resources in accordance with the guidelines established by the
27 United States Environmental Protection Agency Hardship Grants
28 Program.

29 Although public necessity, the criteria established by Chapter 159G
30 of the General Statutes, and the guidelines established by the United
31 States Environmental Protection Agency Hardship Grants Program shall
32 be the primary consideration in granting and loaning funds, great
33 emphasis shall also be placed on the creation of efficient systems of
34 regional wastewater disposal and regional water supply and on the
35 willingness and ability of local government units to meet their
36 responsibilities through sound fiscal policies, creative planning, and
37 efficient operation and management, and on having a capital
38 improvement plan.

- 39 (2) The proceeds of sixty million dollars (\$60,000,000) of Clean Water
40 Bonds shall be used for the purpose of making grants to local
41 government units to pay the cost of clean water projects in connection
42 with the location of industry to, and expansion of industry in, the State.
43 These grants shall be awarded and administered by the Department of

1 Commerce. These funds shall be applied to pay the costs of grants
2 awarded in the same manner as funds in the Industrial Development
3 Fund created in G.S. 143B-437.01(a), for use in accordance with G.S.
4 143B-437.01(a), subject to the further limitations on the provisions of
5 G.S. 143B-437.01(a) set forth below, and shall be applied to pay the
6 costs of grants awarded in the same manner as funds in the Utility
7 Account of the Industrial Development Fund created in G.S. 143B-
8 437.01(b1), for use in accordance with G.S. 143B-437.01(b1), subject to
9 the further limitations on the provisions of G.S. 143B-437.01(b1) set
10 forth below. In applying the provisions of G.S. 143B-437.01(a) or G.S.
11 143B-437.01(b1), as the case may be, the following exceptions shall
12 apply:

- 13 a. The funds shall be used only for grants to local governments, not
14 for loans.
- 15 b. Grants shall be awarded only to projects the Secretary of
16 Commerce finds will have a favorable impact on the clean water
17 objectives of the State.
- 18 c. The only purposes for which grants may be made are
19 construction of or improvements to new or existing water or
20 sewer distribution lines or equipment, construction of or
21 improvements to new or existing wastewater treatment works, or
22 improvements that will expand the capacity of existing
23 wastewater treatment works or water supply systems.
- 24 d. The projects may be located only in counties that are
25 economically distressed as defined in G.S. 143B-437.01 or have
26 a population of less than 50,000.
- 27 e. Grants may be made with respect to the following industries as
28 defined in G.S. 105-129.2: manufacturing and processing, and
29 warehousing and wholesale trades.
- 30 f. No match is required for the grants.
- 31 g. The provisions of G.S. 143B-437.01(a) or G.S. 143B-437.01(b1),
32 as the case may be, that limit the expenditure of funds to costs of
33 utility lines or facilities located on the site of the new or proposed
34 industrial building or that are directly related to the operation of
35 the specific industrial activity at the building, shall not apply if
36 the utility lines or facilities being provided will further the clean
37 water objectives of the State.

38 The General Assembly finds that the purpose of providing water and
39 sewer distribution lines and wastewater treatment works in
40 economically distressed counties is to provide clean water in North
41 Carolina in several different ways. First, these projects will reduce
42 industrial reliance on wells, septic tanks, and other similar facilities.
43 Second, when a distribution line is extended to an industrial facility in

1 an area not otherwise served by water and sewer infrastructure,
2 residents, other businesses, and local governments can hook into the
3 distribution line, bringing clean water, wastewater treatment, or both to
4 the unserved area. Also, the installation and expansion of water supply
5 and wastewater treatment facilities to provide water supply and
6 wastewater treatment in connection with new or expanding industry will
7 result in additional water supply and treatment facilities available to the
8 residents, other businesses, and local governments in the area where the
9 installation or expansion occurs.

10 The proceeds of the Clean Water Bonds, issued for the purpose
11 described in this Section 5(a)(2), shall be held in the Clean Water Bonds
12 Fund until needed for expenditure by the grantee for the payment of the
13 cost for the purpose for which the grant is made. The Department of
14 Commerce shall maintain records that document the timing and purpose
15 for which each expenditure of proceeds of a grant is made.

16 (3) The proceeds of fifty million dollars (\$50,000,000) of Clean Water
17 Bonds shall be used to provide supplemental and capacity grants to
18 eligible local government units to match federal, State, and other grant
19 or loan program funds to plan or improve needed water and sewer
20 projects in economically depressed areas of North Carolina. Such
21 grants shall be awarded and administered by the Rural Economic
22 Development Center. Those proceeds shall be allocated as follows:

- 23 a. Supplemental Grants \$40,000,000
24 b. Capacity Grants \$10,000,000

25 The Rural Economic Development Center shall certify to the State
26 Treasurer the amount of funds required, not to exceed eight million
27 dollars (\$8,000,000) for supplemental grants, not to exceed two million
28 dollars (\$2,000,000) for capacity grants, and not to exceed a total of ten
29 million dollars (\$10,000,000) in supplemental and capacity grants, for
30 each of the fiscal years ending June 30, 1999, June 30, 2000, June 30,
31 2001, June 30, 2002, June 30, 2003, and June 30, 2004. Upon
32 certification each year of the amount of funds required for that fiscal
33 year, the State Treasurer may issue the amount certified up to ten
34 million dollars (\$10,000,000). Upon certification for the fiscal year
35 ending June 30, 2004, the State Treasurer may issue the remaining
36 balance of the fifty million dollars (\$50,000,000) of the Clean Water
37 Bonds authorized by this subdivision for any other purposes authorized
38 by this subdivision.

39 Grants made from the proceeds of this fifty million dollars
40 (\$50,000,000) for supplemental grants shall be based on the following
41 criteria:

- 42 a. The applicant shall be a local government unit.

- 1 b. The applicant shall be a rural county or a local government unit
2 located in a rural county.
- 3 c. First priority shall be given to a water supply system, wastewater
4 collection system, or wastewater treatment work that creates or
5 retains jobs. A water supply system, wastewater collection
6 system, or wastewater treatment work shall also receive funding
7 priority if the project is located in an economically distressed
8 county as defined by G.S. 143B-437.01.
- 9 d. A water supply system, wastewater collection system, or
10 wastewater treatment work that is proposed in a nondistressed
11 county must meet at least one of the following criteria: (i) be
12 located in that part of a rural nondistressed county where the
13 poverty rate is at least one hundred fifty percent (150%) of the
14 State poverty rate, (ii) be located in that part of a rural
15 nondistressed county where the unemployment rate is at least
16 double the State unemployment rate for the most recent reporting
17 period available, or (iii) be located in that part of a rural
18 nondistressed county that experiences an actual or imminent loss
19 of jobs in a number that equals or exceeds five percent (5%) of
20 the total number of jobs in that part of the county. Any grant
21 awarded for a water supply system, wastewater collection
22 system, or wastewater treatment work in a nondistressed county
23 shall be matched on a dollar-for-dollar basis in the amount of the
24 grant awarded.

25 Although public necessity and the criteria listed above shall
26 be the primary consideration in granting and loaning funds, great
27 emphasis shall also be placed on the creation of efficient systems
28 of regional wastewater disposal and regional water supply and on
29 the willingness and ability of local government units to meet
30 their responsibilities through sound fiscal policies, creative
31 planning, and efficient operation and management, and on having
32 a capital improvement plan. However, funds shall not be
33 expended for the repair or replacement of low-pressure pipe
34 wastewater systems.

35 The Rural Economic Development Center shall award grants
36 to units of local government for the purposes authorized by this
37 Section 5(a)(2) in accordance with the criteria set forth above.
38 When the Rural Economic Development Center authorizes a
39 grant, the Rural Economic Development Center shall notify the
40 State Treasurer of the authorization and shall submit to the State
41 Treasurer the grant application and records relevant to the grant's
42 authorization. The State Treasurer shall review the grant and
43 relevant documents to verify that the grant complies with the

1 requirements of this act. The State Treasurer shall complete the
2 review no later than 30 days after the receipt of the grant
3 application and relevant records from the Rural Economic
4 Development Center, and shall notify the Rural Economic
5 Development Center that the review has been completed and of
6 the State Treasurer's findings.

7 The proceeds of the Clean Water Bonds issued for the
8 purpose described in this section shall be held in the Clean Water
9 Bonds Fund until needed for expenditure by the grantee for the
10 payment of costs for the purposes for which the grant is made.
11 The Rural Economic Development Center shall maintain records
12 that document the timing and purpose for which each expenditure
13 of proceeds of a grant is made and shall furnish such records to
14 the State Treasurer at the time a request for payment to or on
15 behalf of a grantee is to be made.

16 At the end of each fiscal year, the Rural Economic
17 Development Center shall provide to the State Treasurer any
18 records that document the timing and purposes of the
19 expenditures by the grantee units of local government of the
20 proceeds of the grants funded from the proceeds of the Clean
21 Water Bonds during that fiscal year that have not already been
22 provided to the State Treasurer.

23 (4) The proceeds of three hundred twenty million dollars (\$320,000,000) of
24 Clean Water Bonds shall be used for the purpose of making loans to
25 local government units to pay the cost of water supply systems, water
26 conservation projects, water reuse projects, wastewater collection
27 systems, and wastewater treatment works. The proceeds shall be
28 allocated as follows:

- 29 a. Wastewater collection systems and wastewater treatment works.
- 30 1. Reserved for loans to local government units whose bond
31 rating is less than 75 or who have no bond rating
32 \$10,000,000
- 33 2. Reserved for loans to local government units whose bond
34 rating is 75 or more \$150,000,000
- 35 b. Water supply and distribution systems and water conservation
36 projects.
- 37 1. Reserved for loans to local government units whose bond
38 rating is less than 75 or who have no bond rating...
39 \$10,000,000
- 40 2. Reserved for loans to local government units whose bond
41 rating is 75 or more..... \$150,000,000

42 The proceeds shall be used to make loans directly to local
43 government units qualifying for a loan from the Clean Water Revolving

1 Loan and Grant Fund or loaned in such other manner as shall effectuate
2 the purposes of this act. To qualify for a loan for the purpose of paying
3 the cost of water supply systems, a local government unit must have a
4 water supply facility plan approved by the Department of Environment
5 and Natural Resources. A water supply facility plan submitted by a
6 local government unit to the Department under G.S. 143-355(l) will be
7 sufficient to meet this requirement. To qualify for a loan for the
8 purpose of paying the cost of wastewater collection systems or
9 wastewater treatment works, a local government unit must have a
10 wastewater facility plan approved by the Department of Environment
11 and Natural Resources. A wastewater facility plan must project future
12 wastewater treatment needs, must present a long-range plan to meet
13 those needs, and must include plans for system operations and
14 maintenance of the facilities being built with the bond proceeds. In
15 addition, great emphasis shall also be placed on having a capital
16 improvement plan.

17 The Department of Environment and Natural Resources shall set the
18 priorities and determine the eligibility of local government units for
19 these loans in accordance with Section 10 of this act. The form of the
20 loans and the details thereof including, without limitation, the maturity,
21 interest rate, and amortization schedule shall be determined, from time
22 to time, by the State Treasurer. In making these determinations, the
23 State Treasurer shall consider the purpose of the loans, the ability of
24 local government units to repay the loans, and the security for the loans.
25 The interest rates on these loans shall reflect the self-supporting nature
26 of the loan program and shall be sufficient to cover substantially all
27 payments of debt service on the three hundred twenty million dollars
28 (\$320,000,000) of Clean Water Bonds and the issuance costs and
29 administrative expenses associated with the issuance of these bonds and
30 the making of these loans, subject to any applicable requirements of the
31 federal tax law.

32 Repayments of the loans shall be credited to the General Fund and
33 may be used to pay, directly or indirectly, debt service on the bonds and
34 notes issued. Repayments may be initially placed into such fund or
35 account as may be determined by the State Treasurer for the purpose of
36 determining compliance with applicable requirements of the federal tax
37 law and shall be expended and disbursed therefrom under the direction
38 and supervision of the Director of the Budget.

- 39 (6) If bond proceeds remain unspent, five years from the date on which the
40 bonds were issued, then the General Assembly may at any session after
41 that five-year period of time increase or decrease the allocations of the
42 proceeds of the Clean Water Bonds set forth in (1), (2), (3), (4), and (5)

1 above, so long as the aggregate amount of the allocations does not
2 exceed seven hundred eighty-five million dollars (\$785,000,000).

3 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall
4 be used for the purpose of providing grants, loans, or other financing to natural gas local
5 distribution companies, persons seeking natural gas distribution franchises, State or local
6 government agencies, or other entities for the costs of constructing natural gas facilities,
7 including pipelines, compressors, interests in real property, and related equipment for the
8 delivery of natural gas in order to facilitate the expansion of natural gas facilities to
9 unserved areas of the State in accordance with the findings of the General Assembly
10 described in Section 15 of this act.

11 Any additional moneys which may be received by means of a grant or grants
12 from the United States of America or any agency or department thereof or from any other
13 source to aid in financing the cost of any natural gas grants authorized by this act may be
14 placed by the State Treasurer in the Natural Gas Bonds Fund or in a separate account or
15 fund and shall be disbursed, to the extent permitted by the terms of the grant or grants,
16 without regard to any limitations imposed by this act.

17 Moneys in the Natural Gas Bonds Fund or any separate natural gas fund or
18 account established under this act may be invested from time to time by the State
19 Treasurer in the same manner permitted for investment of moneys belonging to the State
20 or held in the State treasury, except with respect to grant money to the extent otherwise
21 directed by the terms of the grant. Investment earnings, except investment earnings with
22 respect to grant money to the extent otherwise directed or restricted by the terms of the
23 grant, may be (i) credited to the Natural Gas Bonds Fund or any separate natural gas fund
24 or account established under this act; (ii) used to pay debt service on the Natural Gas
25 Bonds authorized by this act; (iii) used to satisfy compliance with applicable
26 requirements of the federal tax law; or (iv) transferred to the General Fund of the State.

27 The proceeds of Natural Gas Bonds and notes may be used with any other
28 moneys made available by the General Assembly for providing grants, loans, or other
29 financing in accordance with this act, including the proceeds of any other State bond
30 issues, whether heretofore made available or which may be made available at the session
31 of the General Assembly at which this act is ratified or any subsequent sessions. The
32 proceeds of Natural Gas Bonds and notes shall be expended and disbursed under the
33 direction and supervision of the Director of the Budget. The funds provided by this act
34 for construction of natural gas facilities shall be disbursed for the purposes provided in
35 this act upon warrants drawn on the State Treasurer by the State Controller, which
36 warrants shall not be drawn until requisition has been approved by the Director of the
37 Budget and which requisition shall be approved only after full compliance with the
38 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

39 The North Carolina Utilities Commission shall provide quarterly reports to the
40 Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and
41 House of Representatives Appropriations Committees, and the Fiscal Research Division
42 on the expenditure of moneys from the Natural Gas Bonds Fund.

1 Section 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of
2 Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of
3 bonds the issuance of which has been anticipated by bond anticipation notes or the
4 proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special
5 fund to be designated "Clean Water Bonds Fund", which may include such appropriate
6 special accounts therein as may be determined by the State Treasurer and shall be
7 disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be
8 allocated and expended as provided in this act.

9 Any additional moneys which may be received by means of a grant or grants
10 from the United States of America or any agency or department thereof or from any other
11 source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water
12 Bonds Fund or in a separate account or fund and shall be disbursed, to the extent
13 permitted by the terms of the grant or grants, without regard to any limitations imposed
14 by this act.

15 Moneys in the Clean Water Bonds Fund or any separate clean water fund or
16 account established under this act may be invested from time to time by the State
17 Treasurer in the same manner permitted for investment of moneys belonging to the State
18 or held in the State treasury, except with respect to grant money to the extent otherwise
19 directed by the terms of the grant. Investment earnings, except investment earnings with
20 respect to grant moneys to the extent otherwise directed or restricted by the terms of the
21 grant, may be (i) credited to the Clean Water Bonds Fund or any separate clean water
22 fund or account established under this act, (ii) used to pay debt service on the bonds
23 authorized by this act, (iii) used to satisfy compliance with applicable requirements of the
24 federal tax law, or (iv) transferred to the General Fund of the State.

25 The proceeds of bonds and notes may be used with any other moneys made
26 available by the General Assembly for making grants and loans authorized by this act,
27 including the proceeds of any other State bond issues, whether heretofore made available
28 or which may be made available at the session of the General Assembly at which this act
29 is ratified or any subsequent sessions. The proceeds of bonds and notes shall be
30 expended and disbursed under the direction and supervision of the Director of the
31 Budget. The funds provided by this act shall be disbursed for the purposes provided in
32 this act upon warrants drawn on the State Treasurer by the State Controller, which
33 warrants shall not be drawn until requisition has been approved by the Director of the
34 Budget and which requisition shall be approved only after full compliance with the
35 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

36 (b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes,
37 including premium thereon, if any, except the proceeds of bonds the issuance of which
38 has been anticipated by bond anticipation notes or the proceeds of refunding bonds or
39 notes, shall be placed by the State Treasurer in a special fund to be designated "Natural
40 Gas Bonds Fund", which may include such appropriate special accounts therein as may
41 be determined by the State Treasurer, and shall be disbursed as provided in this act.
42 Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in
43 this act. The proceeds may be used in accordance with G.S. 62-159 or may be

1 distributed in accordance with the provisions of legislation enacted by the General
2 Assembly in 1998 or later providing for the allocation of the bond proceeds for the
3 purposes provided in this act.

4 (c) Costs. Allocations to the costs of a capital improvement or undertaking
5 in each case may include allocations to pay the costs set forth in Section 3(6)c., d., e., f.,
6 and g. of this act in connection with the issuance of bonds for that capital improvement or
7 undertaking.

8 Section 7. Election. The questions of the issuance of the bonds authorized by
9 this act shall be submitted to the qualified voters of the State at an election to be held on
10 the first Tuesday after the first Monday of November 1998. Any other primary, election,
11 or referendum validly called or scheduled by law at the time the election on the bond
12 question provided for in this section is held may be held as called or scheduled. Notice of
13 the election shall be given in the manner and at the times required by G.S. 163-33(8).
14 The election and the registration of voters therefor shall be held under and in accordance
15 with the general laws of the State. Absentee ballots shall be authorized in the election.

16 The State Board of Elections shall reimburse the counties of the State for all
17 necessary expenses incurred in holding the election that are in addition to those that
18 would have otherwise been incurred, the same to be paid out of the Contingency and
19 Emergency Fund or other funds available to the State Board of Elections.

20 Ballots, voting systems authorized by Article 14 of Chapter 163 of the General
21 Statutes, or both may be used in accordance with rules prescribed by the State Board of
22 Elections. The bond questions to be used in the ballots or voting systems shall be in
23 substantially the following form:

24 FOR AGAINST
25 the issuance of seven hundred eighty-five million dollars (\$785,000,000) State of North
26 Carolina Clean Water Bonds constituting general obligation bonds of the State secured by
27 a pledge of the faith and credit and taxing power of the State for the purpose of providing
28 funds, with any other available funds, to make loans and grants to local government units
29 to pay all or a portion of the cost of clean water projects."

30 FOR AGAINST
31 the issuance of two hundred fifteen million dollars (\$215,000,000) State of North
32 Carolina Natural Gas Bonds constituting general obligation bonds of the State secured by
33 a pledge of the faith and credit and taxing power of the State for the purpose of providing
34 funds, with any other available funds, to provide grants, loans, or other financing to
35 public or private entities for construction of natural gas facilities in order to facilitate the
36 expansion of natural gas facilities to unserved portions of the State."

37 If a majority of those voting on a bond question in the election vote in favor of
38 the issuance of the bonds described in the question, those bonds may be issued as
39 provided in this act. If a majority of those voting on a bond question in the election vote
40 against the issuance of the bonds described in the question, those bonds shall not be
41 issued.

42 The results of the election shall be canvassed and declared as provided by law
43 for elections for State officers; the results of the election shall be certified by the State

1 Board of Elections to the Secretary of State, in the manner and at the time provided by
2 the general election laws of the State.

3 Section 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes
4 may bear such date or dates, may be serial or term bonds or notes, or any combination
5 thereof, may mature in such amounts and at such time or times, not exceeding 40 years
6 from their date or dates, may be payable at such place or places, either within or without
7 the United States of America, in such coin or currency of the United States of America as
8 at the time of payment is legal tender for payment of public and private debts, may bear
9 interest at such rate or rates, which may vary from time to time, and may be made
10 redeemable before maturity, at the option of the State or otherwise as may be provided by
11 the State, at such price or prices, including a price less than the face amount of the bonds
12 or notes, and under such terms and conditions, all as may be determined by the State
13 Treasurer, by and with the consent of the Council of State.

14 (b) Signatures; Form and Denomination; Registration. Bonds or notes may
15 be issued as certificated or uncertificated obligations. If issued as certificated obligations,
16 bonds or notes shall be signed on behalf of the State by the Governor or shall bear his
17 facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile
18 signature, and shall bear the Great Seal of the State or a facsimile thereof shall be
19 impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the
20 Governor and the State Treasurer, the bonds or notes shall also bear a manual signature
21 which may be that of a bond registrar, trustee, paying agent, or designated assistant of the
22 State Treasurer. Should any officer whose signature or facsimile signature appears on
23 bonds or notes cease to be such officer before the delivery of the bonds or notes, the
24 signature or facsimile signature shall nevertheless have the same validity for all purposes
25 as if the officer had remained in office until delivery, and bonds or notes may bear the
26 facsimile signatures of persons who at the actual time of the execution of the bonds or
27 notes shall be the proper officers to sign any bond or note although at the date of the bond
28 or note such persons may not have been such officers. The form and denomination of
29 bonds or notes, including the provisions with respect to registration of the bonds or notes
30 and any system for their registration, shall be as the State Treasurer may determine in
31 conformity with this act; provided, however, that nothing in this act shall prohibit the
32 State Treasurer from proceeding, with respect to the issuance and form of the bonds or
33 notes, under the provisions of Chapter 159E of the General Statutes, the Registered
34 Public Obligations Act, as well as under this act.

35 (c) Manner of Sale; Expenses. Subject to determination by the Council of
36 State as to the manner in which bonds or notes shall be offered for sale, whether at public
37 or private sale, whether within or without the United States of America, and whether by
38 publishing notices in certain newspapers and financial journals, mailing notices, inviting
39 bids by correspondence, negotiating contracts of purchase or otherwise, the State
40 Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate
41 or rates of interest, which may vary from time to time, and at such price or prices,
42 including a price less than the face amount of the bonds or the notes, as the State
43 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of

1 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or
2 other available moneys.

3 (d) Notes; Repayment.

4 (1) By and with the consent of the Council of State, the State Treasurer is
5 hereby authorized to borrow money and to execute and issue notes of
6 the State for the same, but only in the following circumstances and
7 under the following conditions:

8 a. For anticipating the sale of bonds to the issuance of which the
9 Council of State shall have given consent, if the State Treasurer
10 shall deem it advisable to postpone the issuance of the bonds;

11 b. For the payment of interest on or any installment of principal of
12 any bonds then outstanding, if there shall not be sufficient funds
13 in the State treasury with which to pay the interest or installment
14 of principal as they respectively become due;

15 c. For the renewal of any loan evidenced by notes herein
16 authorized;

17 d. For the purposes authorized in this act; and

18 e. For refunding bonds or notes as herein authorized.

19 (2) Funds derived from the sale of bonds or notes may be used in the
20 payment of any bond anticipation notes issued under this act. Funds
21 provided by the General Assembly for the payment of interest on or
22 principal of bonds shall be used in paying the interest on or principal of
23 any notes and any renewals thereof, the proceeds of which shall have
24 been used in paying interest on or principal of the bonds.

25 (e) Refunding Bonds and Notes. By and with the consent of the Council of
26 State, the State Treasurer is authorized to issue and sell refunding bonds and notes
27 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding
28 bonds or notes issued pursuant to this act. The refunding bonds and notes may be
29 combined with any other issues of State bonds and notes similarly secured.

30 (f) Tax Exemption. Bonds and notes shall be exempt from all State,
31 county, and municipal taxation or assessment, direct or indirect, general or special,
32 whether imposed for the purpose of general revenue or otherwise, excluding inheritance
33 and gift taxes, income taxes on the gain from the transfer of bonds and notes, and
34 franchise taxes. The interest on bonds and notes shall not be subject to taxation as to
35 income.

36 (g) Investment Eligibility. Bonds and notes are hereby made securities in
37 which all public officers, agencies, and public bodies of the State and its political
38 subdivisions, all insurance companies, trust companies, investment companies, banks,
39 savings banks, savings and loan associations, credit unions, pension or retirement funds,
40 other financial institutions engaged in business in the State, executors, administrators,
41 trustees, and other fiduciaries may properly and legally invest funds, including capital in
42 their control or belonging to them. Bonds and notes are hereby made securities which
43 may properly and legally be deposited with and received by any officer or agency of the

1 State or political subdivision of the State for any purpose for which the deposit of bonds,
2 notes, or obligations of the State or any political subdivision is now or may hereafter be
3 authorized by law.

4 (h) Faith and Credit. The faith and credit and taxing power of the State are
5 hereby pledged for the payment of the principal of and the interest on bonds and notes.
6 In addition to the State's right to amend any provision of this act to the extent it does not
7 impair any contractual right of a bond owner, the State expressly reserves the right to
8 amend any provision of this act with respect to the making and repayment of loans, the
9 disposition of any repayments of loans, and any intercept provisions relating to the failure
10 of a local government unit to repay a loan, the bonds not being secured in any respect by
11 loans, any repayments thereof, or any intercept provisions with respect thereto.

12 Section 9. Variable interest rates. In fixing the details of bonds and notes, the
13 State Treasurer may provide that any of the bonds or notes may:

- 14 (1) Be made payable from time to time on demand or tender for purchase
15 by the owner thereof provided a credit facility supports the bonds or
16 notes, unless the State Treasurer specifically determines that a credit
17 facility is not required upon a finding and determination by the State
18 Treasurer that the absence of a credit facility will not materially or
19 adversely affect the financial position of the State and the marketing of
20 the bonds or notes at a reasonable interest cost to the State;
- 21 (2) Be additionally supported by a credit facility;
- 22 (3) Be made subject to redemption or a mandatory tender for purchase prior
23 to maturity;
- 24 (4) Bear interest at a rate or rates that may vary for such period or periods
25 of time, all as may be provided in the proceedings providing for the
26 issuance of the bonds or notes, including, without limitation, such
27 variations as may be permitted pursuant to a par formula; and
- 28 (5) Be made the subject of a remarketing agreement whereby an attempt is
29 made to remarket bonds or notes to new purchasers prior to their
30 presentment for payment to the provider of the credit facility or to the
31 State.

32 If the aggregate principal amount repayable by the State under a credit facility
33 is in excess of the aggregate principal amount of bonds or notes secured by the credit
34 facility, whether as a result of the inclusion in the credit facility of a provision for the
35 payment of interest for a limited period of time or the payment of a redemption premium
36 or for any other reason, then the amount of authorized but unissued bonds or notes during
37 the term of such credit facility shall not be less than the amount of such excess, unless the
38 payment of such excess is otherwise provided for by agreement of the State executed by
39 the State Treasurer.

40 Section 10. Special provisions governing clean water loans. (a) Scope. The
41 provisions of this section shall apply to loans being made from the proceeds of bonds
42 authorized by this act for clean water projects, other than from funds deposited in the
43 Clean Water Revolving Loan and Grant Fund.

1 (b) Clean Water Bonds Loan Account. There is established in the
2 Department of State Treasurer a special account to be known as the Clean Water Bonds
3 Loan Account, which may include any special or segregated accounts the State Treasurer
4 considers appropriate. There shall be deposited in the Clean Water Bonds Loan Account
5 proceeds of the Clean Water Bonds and notes to be used to make loans, other than loans
6 to be made through the Clean Water Revolving Loan and Grant Fund, to local
7 government units for clean water projects as provided in this act.

8 Except as otherwise permitted by Section 5 of this act with respect to the use of
9 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan
10 Account other than funds set aside for administrative expenses, including expenses
11 related to determining compliance with applicable requirements of the federal tax law and
12 costs of issuance, shall be used to make loans for the purposes provided in this act. The
13 State Treasurer shall be responsible for making and administering all loans pursuant to
14 the provisions of this section.

15 (c) Application for Loans; Hearings.

16 (1) Eligibility/Initial Hearing.

17 a. Prior to filing an application for a loan, a local government unit
18 shall hold a public hearing. A notice of the public hearing shall
19 be published once at least 10 days before the date fixed for the
20 hearing.

21 b. All applications for loans shall be filed with the Department of
22 Environment and Natural Resources. The form of the application
23 shall be prescribed by the Department and shall require any
24 information necessary to determine the eligibility for a loan
25 under the provisions of this section. All applications approved
26 by the Department of Environment and Natural Resources shall
27 be filed with the Local Government Commission. Each applicant
28 shall furnish to the Department of Environment and Natural
29 Resources and the Local Government Commission information
30 in addition or supplemental to the information contained in its
31 application, upon request.

32 c. A local government unit shall not be eligible for a loan unless it
33 demonstrates to the satisfaction of the Department of
34 Environment and Natural Resources and the Local Government
35 Commission that:

- 36 1. The applicant is a local government unit;
- 37 2. The applicant has the financial capacity to pay the
38 principal of and interest on its proposed loan as evidenced
39 by the approval of the Local Government Commission;
- 40 3. The applicant has substantially complied or will
41 substantially comply with all applicable laws, rules,
42 regulations, and ordinances, whether federal, State, or
43 local; and

1 4. The applicant has agreed by official resolution to adopt
2 and place into effect a schedule of fees and charges or the
3 application of other sources of revenue which will provide
4 adequate funds for proper operation, maintenance, and
5 administration of the project and repayment of all
6 principal and interest on the loan.

7 (2) Assessment. The Department of Environment and Natural Resources
8 may require any applicant to file with its application an assessment of
9 the impact the project for which the funds are sought will have upon
10 meeting the facility needs of the area within which the project is to be
11 located.

12 (3) Hearing by the Department of Environment and Natural Resources or
13 the Local Government Commission. A public hearing may be held by
14 the Department of Environment and Natural Resources or the Local
15 Government Commission at any time on any application. Public
16 hearings may also be held by the Department of Environment and
17 Natural Resources in its discretion upon written request from any citizen
18 or taxpayer who is a resident of the county or counties in which the
19 project is to be located or a resident of the local government unit that
20 proposes to borrow moneys under this act, if it appears that the public
21 interest will be served by the hearing. The written request shall set forth
22 each objection to the proposed project or other reason for requesting a
23 hearing on the application and shall contain the name and address of the
24 persons submitting it. In deciding whether to grant a request for a
25 hearing on an application, the Department of Environment and Natural
26 Resources may consider the application, the written objections to the
27 proposed project, and the facility needs and shall determine if the public
28 interest will be served by a hearing. The determination by the
29 Department of Environment and Natural Resources shall be conclusive,
30 and all written requests for a hearing shall be retained as a permanent
31 part of the records pertaining to the application.

32 (4) Petition for Vote. A petition, demanding that the question of whether to
33 enter into a loan agreement with the State under this act be submitted to
34 voters, may be filed with the clerk of the local government unit applying
35 for the loan within 15 days after the public hearing required by this
36 section. The petition's sufficiency shall be determined and a
37 referendum, if any, shall be conducted according to the standards,
38 procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

39 (d) Priorities.

40 (1) Determination. Determination of priorities to be assigned each eligible
41 project shall be made semiannually by the Department of Environment
42 and Natural Resources during each fiscal year. Every eligible project
43 shall be considered by the Department of Environment and Natural

- 1 Resources with every other project eligible during this same priority
2 period.
- 3 (2) Priority Factors. All applications for loans under this act shall be
4 assigned a priority by the Department of Environment and Natural
5 Resources. The Department of Environment and Natural Resources
6 shall establish other priority factors criteria by rule.
- 7 (3) Assignment of Priority. A written statement relative to each priority
8 assigned shall be prepared by the Department of Environment and
9 Natural Resources and shall be attached to the application. The priority
10 assigned shall be conclusive.
- 11 (4) Failure to Qualify. If an application does not qualify for a loan as of the
12 prior period in which the application was eligible for consideration by
13 reason of the priority assigned, the application shall be considered
14 during the next succeeding priority period upon request of the applicant.
15 If the application again fails to qualify for a loan during the second
16 priority period by reason of the priority assigned, the application shall
17 receive no further consideration. An applicant may file a new
18 application at any time and may amend any pending application to
19 include additional data or information.
- 20 (5) Withdrawal of Commitment. Failure of an applicant within one year
21 after the date of acceptance of the loan to arrange for necessary
22 financing of the proposed project or award of the contract of the
23 construction of the proposed project shall constitute sufficient cause for
24 withdrawal of the commitment. Prior to withdrawal of a commitment,
25 the Department of Environment and Natural Resources shall give due
26 consideration to any extenuating circumstances presented by the
27 applicant as reasons for failure to arrange necessary financing or to
28 award a contract, and the commitment may be extended for an
29 additional period of time if, in the judgment of the Department of
30 Environment and Natural Resources, the extension is justified.
- 31 (e) Disbursement. To be eligible to receive the loans provided for in this
32 section, a local government unit must arrange to borrow the amounts necessary pursuant
33 to rules adopted by the Local Government Commission. No funds shall be disbursed
34 until the Department of Environment and Natural Resources gives a certificate of
35 eligibility to the effect that the applicant meets all eligibility criteria and that all
36 procedural requirements of this act have been met. The maximum principal amount of a
37 loan shall be one hundred percent (100%) of the cost of any eligible project.
- 38 (f) Intercept. The governing body of a local government unit shall by
39 resolution authorize to be included in its loan agreement a provision authorizing the State
40 Treasurer, upon failure of the local government unit to make a scheduled repayment of
41 the loan, to withhold from the local government unit any State funds that would
42 otherwise be distributed to the local government unit in an amount sufficient to pay all
43 sums then due and payable to the State as a repayment of the loan. In such event,

1 notwithstanding any other provision of law, the State Treasurer is authorized to withhold
2 and apply such funds to the repayment of the loan, except that such funds shall not be
3 withheld if (i) before the execution of the loan agreement, such funds have been legally
4 pledged to secure special obligation bonds or other obligations of the local government
5 unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to
6 secure special obligation bonds or other obligations of the local government unit as
7 authorized in this subsection. After the execution of a loan agreement, all or any portion
8 of the State funds specified in the loan agreement to be so withheld may be pledged to
9 secure special obligation bonds or other obligations of the local government unit only
10 with the prior written consent of the State Treasurer.

11 The State Treasurer shall notify the Secretary of Revenue and the State
12 Controller of the amount to be withheld from the local government unit, and the
13 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the
14 amount so requested to be applied by the State Treasurer to the repayment of the loan.

15 (g) Inspection. Inspection of a project for which a loan has been made
16 under this act may be performed by qualified personnel of the Department of
17 Environment and Natural Resources or may be performed by qualified engineers
18 registered in this State approved by the Department of Environment and Natural
19 Resources. No person shall be approved to perform inspections who is an officer
20 employed by the local government unit to which the loan was made or who is an owner,
21 officer, employer, or agent of a contractor or subcontractor engaged in the construction of
22 the project for which the loan was made. For the purpose of payment of inspection fees,
23 inspection services shall be included in the term "cost" as used in this act.

24 (h) Rules. The State Treasurer, the Local Government Commission, and
25 the Department of Environment and Natural Resources may adopt, modify, and repeal
26 rules necessary for the administration of their respective duties under this act. Uniform
27 rules may be jointly adopted where feasible and desirable, and no rule, jointly adopted,
28 may be modified or revoked except upon concurrence of all agencies involved.

29 (i) Federal Grants and Loans. In order to carry out the purposes of this act
30 to secure the greatest possible benefits to the citizens of this State of the funds
31 appropriated, the State Treasurer, the Local Government Commission, and the
32 Department of Environment and Natural Resources shall adopt rules and criteria, not
33 inconsistent with provisions of this act, as are necessary and appropriate to conform to
34 regulations for federal grants and loans for any of the purposes set forth in this act.

35 (j) Report by Department of Environment and Natural Resources. The
36 Department of Environment and Natural Resources shall prepare and file each year on or
37 before July 31 with the Joint Legislative Commission on Governmental Operations and
38 the Fiscal Research Division a report for the preceding fiscal year concerning the
39 allocation and making of loans authorized by this act. The report shall set forth for the
40 preceding fiscal year:

41 (1) Itemized and total allocations of loans authorized and unallocated funds
42 for the loan program as of the end of the preceding fiscal year;

- 1 (2) Identification of each loan agreement entered into by the State during
2 the preceding fiscal year and the total amount of loans authorized by
3 such loan agreements;
4 (3) The amount disbursed to each local government unit pursuant to such
5 loan agreements during the preceding fiscal year and the total amount of
6 such disbursements;
7 (4) The loan repayments made by each local government unit pursuant to
8 such loan agreements and the total amount of such loan repayments
9 during the preceding fiscal year; and
10 (5) A summary for the five preceding years of the information required by
11 subdivisions (1) through (4) of this subsection.

12 The report shall be signed by the Secretary of Environment and Natural Resources.

- 13 (k) Local Government Commission.
14 (1) Local government units may execute debt instruments payable to the
15 State in order to obtain loans provided for in this act. Local government
16 units shall pledge or agree to apply as security for such obligations:
17 a. Any available source of revenues of the local government unit,
18 including revenues from benefitted facilities or systems, provided
19 that (i) the local government unit has not otherwise pledged the
20 revenues as security for, or contractually agreed to apply the
21 revenues to, the payment of any other obligations of the local
22 government unit, (ii) the use of the revenues is not otherwise
23 restricted by law, or (iii) the revenues are not derived from the
24 exercise of the local government unit's taxing power; or
25 b. Their faith and credit; or
26 c. Any combination of a. or b. above.

27 The faith and credit of a local government unit shall not be pledged
28 or be deemed to have been pledged unless the requirements of Article 4
29 of Chapter 159 of the General Statutes have been met. The State
30 Treasurer, with the assistance of the Local Government Commission,
31 shall develop and adopt appropriate debt instruments for use under this
32 act.

- 33 (2) Nothing contained in this act shall prohibit any local government unit
34 from applying any funds of the local government unit not otherwise
35 restricted as to use by law to the payment of any debt instrument
36 payable to the State incurred pursuant to the provisions of this act.
37 (3) The Local Government Commission shall review and approve proposed
38 loans to local government units under this act under the provisions of
39 Articles 4 and 5 of Chapter 159 of the General Statutes. The Local
40 Government Commission in considering the ability of a local
41 government unit to repay a loan may regard as a source of revenue for
42 repayment of a loan revenue sources that may not be available other
43 than on an annual discretionary basis and that may not be subject to a

1 pledge or agreement to apply. Loans under this act shall be outstanding
2 debts for the purposes of Article 10 of Chapter 159 of the General
3 Statutes.

- 4 (4) The State Treasurer shall annually certify to the General Assembly the
5 financial condition of the loan program and identify existing
6 delinquencies.

7 Section 11. Reports. (a) The Rural Economic Development Center shall prepare and
8 file each year on or before July 31 with the Joint Legislative Commission on
9 Governmental Operations and the Fiscal Research Division a report for the preceding
10 fiscal year concerning the allocation and making of grants authorized by this act. The
11 report shall be signed by the Chair of the Board of Directors of the Rural Economic
12 Development Center. The report shall set forth for the preceding fiscal year:

- 13 (1) Itemized and total allocations of grants authorized and unallocated funds
14 for the grant program as of the end of the preceding fiscal year;
15 (2) Identification of each grant agreement entered into by the Rural
16 Economic Development Center during the preceding fiscal year and the
17 total amount of grants authorized by the grant agreements;
18 (3) The amount disbursed to each local government unit pursuant to the
19 grant agreements during the preceding fiscal year and the total amount
20 of the disbursements; and
21 (4) A summary for the five preceding years of the information required by
22 subdivisions (1) through (3) of this subsection.

23 (b) The Department of Environment and Natural Resources shall prepare
24 and file each year on or before July 31 with the Joint Legislative Commission on
25 Governmental Operations and the Fiscal Research Division a report for the preceding
26 fiscal year concerning the allocation and making of grants authorized by this act. The
27 report shall be signed by the Secretary of Environment and Natural Resources. The
28 report shall set forth for the preceding fiscal year:

- 29 (1) Itemized and total allocations of grants authorized and unallocated funds
30 for the grant program as of the end of the preceding fiscal year;
31 (2) Identification of each grant agreement entered into by the Department of
32 Environment and Natural Resources during the preceding fiscal year
33 and the total amount of grants authorized by the grant agreements;
34 (3) The amount disbursed to each local government unit pursuant to the
35 grant agreements during the preceding fiscal year and the total amount
36 of the disbursements; and
37 (4) A summary for the five preceding years of the information required by
38 subdivisions (1) through (3) of this subsection.

39 (c) The Department of Commerce shall prepare and file each year on or
40 before July 31 with the Joint Legislative Commission on Governmental Operations and
41 the Fiscal Research Division a report for the preceding fiscal year concerning the
42 allocation and making of grants authorized by this act. The report shall be signed by the
43 Secretary of Commerce. The report shall set forth for the preceding fiscal year:

- 1 (1) Itemized and total allocations of grants authorized and unallocated funds
2 for the grant program as of the end of the preceding fiscal year;
- 3 (2) Identification of each grant agreement entered into by the Department of
4 Commerce during the preceding fiscal year and the total amount of
5 grants authorized by the grant agreements;
- 6 (3) The amount disbursed to each local government unit pursuant to the
7 grant agreements during the preceding fiscal year and the total amount
8 of the disbursements; and
- 9 (4) A summary for the five preceding years of the information required by
10 subdivisions (1) through (3) of this subsection.

11 Section 12. Minority business participation. The goals set by G.S. 143-128 for
12 participation in projects by minority businesses apply to projects funded by the proceeds
13 of bonds or notes issued under this act. The Department of Environment and Natural
14 Resources, the Department of Commerce, and the Rural Economic Development Center
15 shall monitor compliance with this requirement and shall report to the General Assembly
16 by January 1 of each year on the participation by minority businesses in these projects.

17 Section 13. Interpretation of act. (a) Additional Method. The foregoing sections of
18 this act shall be deemed to provide an additional and alternative method for the doing of
19 the things authorized thereby and shall be regarded as supplemental and additional to
20 powers conferred by other laws, and shall not be regarded as in derogation of any powers
21 now existing.

22 (b) Statutory References. References in this act to specific sections or
23 Chapters of the General Statutes or to specific acts are intended to be references to these
24 sections, Chapters, or acts as they may be amended from time to time by the General
25 Assembly.

26 (c) Broad Construction. This act, being necessary for the health and
27 welfare of the people of the State, shall be broadly construed to effect the purposes
28 thereof.

29 (d) Inconsistent Provisions. Insofar as the provisions of this act are
30 inconsistent with the provisions of any general laws, or parts thereof, the provisions of
31 this act shall be controlling.

32 (e) Severability. If any provision of this act or the application thereof to
33 any person or circumstance is held invalid, such invalidity shall not affect other
34 provisions or applications of the act which can be given effect without the invalid
35 provision or application, and to this end the provisions of this act are declared to be
36 severable.

37 Section 14. G.S. 159G-6 reads as rewritten:

38 **"§ 159G-6. Distribution of funds.**

39 (a) Revolving loans and grants.

- 40 (1) All funds appropriated or accruing to the Clean Water Revolving Loan
41 and Grant Fund, other than funds set aside for administrative expenses,
42 shall be used for revolving loans and grants to local government units
43 for construction costs of wastewater treatment works, wastewater

1 collection systems and water supply systems and other assistance as
2 provided in this Chapter.

3 (2) The maximum principal amount of a revolving loan or a grant may be
4 one hundred percent (100%) of the nonfederal share of the construction
5 costs of any eligible project. The maximum principal amount of
6 revolving loans made to any one local government unit during any fiscal
7 year shall be ~~three-five~~ million dollars ~~(\$3,000,000)-(\$5,000,000)~~. The
8 maximum principal amount of grants made to any one local government
9 unit during any fiscal year shall be ~~one-two~~ million dollars ~~(\$1,000,000)-~~
10 ~~(\$2,000,000)~~.

11 (3) The State Treasurer shall be responsible for investing and distributing
12 all funds appropriated or accruing to the Clean Water Revolving Loan
13 and Grant Fund for revolving loans and grants under this Chapter. In
14 fulfilling his responsibilities under this section, the State Treasurer shall
15 make a written request to the Department of Environment and Natural
16 Resources to arrange for the appropriated funds to be (i) transferred
17 from the appropriate accounts to a local government unit to provide
18 funds for one or more revolving loans or grants or (ii) invested as
19 authorized by this Chapter with the interest on and the principal of such
20 investments to be transferred to the local government unit to provide
21 funds for one or more revolving loans or grants.

22 (b) Wastewater Accounts. – The sums allocated in G.S. 159G-4 and accruing to
23 the various Wastewater Accounts in each fiscal year shall be used to make revolving
24 loans and grants to local government units as provided below. The Department of
25 Environment and Natural Resources shall disburse no funds from the Wastewater
26 Accounts except upon receipt of written approval of the disbursement from the
27 Environmental Management Commission.

28 (1) General Wastewater Revolving Loan and Grant Account. – The funds in
29 the General Wastewater Revolving Loan and Grant Account shall be
30 used exclusively for the purpose of providing for revolving construction
31 loans or grants in connection with approved wastewater treatment work
32 or wastewater collection system projects.

33 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit Cost
34 Wastewater Account shall be available for grants to applicants for high-
35 unit cost wastewater projects. Eligibility of an applicant for such a grant
36 shall be determined by comparing estimated average household user
37 fees for water and sewer service, for debt service and operation and
38 maintenance costs, to one and one-half percent (1.5%) of the median
39 household income in the ~~county~~ local government unit in which the
40 project is located. The projects which would require estimated average
41 household water and sewer user fees greater than one and one-half
42 percent (1.5%) of the median household income are defined as high-unit
43 cost wastewater projects and will be eligible for a grant equal to the

1 excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of
2 this section.

- 3 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
4 Emergency Wastewater Revolving Loan Account shall be available for
5 revolving emergency loans to applicants in the event the Environmental
6 Management Commission certifies that a serious public health hazard,
7 related to the inadequacy of existing wastewater facilities, is present or
8 imminent in a community.

9 (c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to
10 the various Water Supply Accounts in each fiscal year shall be used to provide revolving
11 loans and grants to local government units as provided below. The Department of
12 Environment and Natural Resources shall disburse no funds from the Water Supply
13 Accounts except upon receipt of written approval of the disbursement from the Division
14 of Environmental Health.

- 15 (1) General Water Supply Revolving Loan and Grant Account. – The funds
16 in the General Water Supply Revolving Loan and Grant Account shall
17 be used exclusively for the purpose of providing for revolving
18 construction loans and grants in connection with water supply systems
19 generally and not upon a county allotment basis.

- 20 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
21 Cost Water Supply Account shall be available for grants to applicants
22 for high-unit cost water supply systems, on the same basis as provided
23 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

- 24 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
25 Emergency Water Supply Revolving Loan Account shall be available
26 for revolving emergency loans to applicants in the event the Division of
27 Environmental Health certifies that a serious public health hazard,
28 related to the water supply system, is present or imminent in a
29 community.

30 (d) Repealed by Session Laws 1991, c. 186, s. 4.

31 (e) Notwithstanding any other provision of this Chapter, funds in the Water
32 Pollution Control Revolving Fund shall not be available as grants except to the extent
33 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
34 thereunder."

35 Section 15. The General Assembly finds that:

- 36 (1) The General Assembly has previously found that it is the policy of this
37 State to facilitate the extension of natural gas facilities to unserved areas
38 of the State; and

- 39 (2) The extension of natural gas facilities to unserved areas of the State is
40 necessary for the health of the people and of the environment; and

- 41 (3) The extension of natural gas facilities to unserved areas of the State will
42 aid and encourage the location of manufacturing enterprises and
43 industrial facilities in those areas of the State, will encourage new

1 construction, homes, and other businesses in those areas of the State,
2 will increase the population, taxable property, agricultural industries,
3 and business prospects in the State; and

4 (4) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws
5 directed the North Carolina Utilities Commission to require the
6 franchised natural gas local distribution companies to file reports with
7 the Commission detailing their plans for providing natural gas service in
8 areas of the State where natural gas service is not available, and directed
9 the Commission and the Public Staff to provide independent analyses
10 and summaries of those reports together with status reports of natural
11 gas service in the State to the Joint Legislative Utility Review
12 Committee; and

13 (5) The reports of the utilities, the Commission, and the Public Staff
14 indicate that the construction of facilities and the extension of natural
15 gas service in some areas of the State may not be economically feasible
16 with traditional funding methods; and

17 (6) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9)
18 authorizing special funding methods, including the use of supplier
19 refunds and customer surcharges, to facilitate the expansion of natural
20 gas service; and

21 (7) While the 1991 legislation has been successful in providing some
22 natural gas service to previously unserved areas of the State, that
23 legislation has not been sufficient to facilitate the extension of service
24 that is necessary and in the public interest, and there are still counties
25 with no gas service or virtually no gas service; and

26 (8) It is therefore necessary to authorize additional funding methods,
27 including appropriations from the General Assembly and the proceeds
28 of general obligation bonds, to further facilitate the expansion of natural
29 gas service.

30 Section 16. Chapter 62 of the General Statutes is amended by adding a new
31 section to read:

32 **"§ 62-159. Additional funding for natural gas expansion.**

33 (a) In order to facilitate the construction of facilities in and the extension of natural
34 gas service to unserved areas, the Commission may provide funding through
35 appropriations from the General Assembly or the proceeds of general obligation bonds as
36 provided in this section to either (i) an existing natural gas local distribution company or
37 (ii) a person or a gas district awarded a new franchise for the construction of natural gas
38 facilities that it otherwise would not be economically feasible for the company or person
39 to construct. The natural gas local distribution company with the existing franchise for
40 any unserved county or counties shall have the first option to utilize funds provided under
41 this section for the purpose of serving that particular county or counties.

42 (b) The use of funds provided under this section shall be pursuant to an order of
43 the Commission after a public hearing. The Commission shall ensure that all projects for

1 which funds are provided under this section are consistent with the intent of this section
2 and G.S. 62-2(9). In determining whether to approve the use of funds for a particular
3 project pursuant to this section, the Commission shall consider the scope of a proposed
4 project, including the number of unserved counties and the number of anticipated
5 customers that would be served, the total cost of the project, the extent to which the
6 project is considered feasible, and other relevant factors affecting the public interest. In
7 determining economic feasibility, the Commission shall employ the net present value
8 method of analysis on a project specific basis. Only those projects with a negative net
9 present value shall be determined to be economically infeasible for the company or
10 person to construct. All net present value calculations made pursuant to this section shall
11 be made using rates that are no higher than the statewide average of natural gas rates. In
12 no event shall the Commission provide funding under this section of an amount greater
13 than the negative net present value of any proposed project as determined by the
14 Commission. If at any time a project is determined by the Commission to have become
15 economically feasible, the Commission shall require the recipient of funding to remit to
16 the Commission appropriate funds related to the project, and the Commission may order
17 those funds to be returned with interest in a reasonable amount to be determined by the
18 Commission. Funds returned, together with interest, shall be deposited with the State
19 Treasurer. Utility plant acquired with expansion funds shall be included in the local
20 distribution company's rate base at zero cost except to the extent such funds have been
21 remitted by the company pursuant to order of the Commission.

22 (c) To the extent that one or more of the counties included in a proposed project to
23 be funded pursuant to this section are counties affected by the loss of exclusive franchise
24 rights provided for in G.S. 62-36A(b), the Commission may conclude that the public
25 interest requires that the person obtaining the franchise or funding pursuant to this section
26 be given an exclusive franchise and that the existing franchise be canceled. Any new
27 exclusive franchise granted under this subsection shall be subject to the provisions of
28 G.S. 62-36A(b).

29 (d) The Commission, after hearing, shall adopt rules to implement this section as
30 soon as practicable. The Commission and Public Staff shall report to the Joint
31 Legislative Utility Review Committee on the use of funding provided under this section
32 in conjunction with the reports required under G.S. 62-36A."

33 Section 17. G.S. 62-2 reads as rewritten:

34 "**§ 62-2. Declaration of policy.**

35 (a) Upon investigation, it has been determined that the rates, services and
36 operations of public utilities as defined herein, are affected with the public interest and
37 that the availability of an adequate and reliable supply of electric power and natural gas
38 to the people, economy and government of North Carolina is a matter of public policy. It
39 is hereby declared to be the policy of the State of North Carolina:

- 40 (1) To provide fair regulation of public utilities in the interest of the public;
- 41 (2) To promote the inherent advantage of regulated public utilities;
- 42 (3) To promote adequate, reliable and economical utility service to all of
- 43 the citizens and residents of the State;

- 1 (3a) To assure that resources necessary to meet future growth through the
2 provision of adequate, reliable utility service include use of the entire
3 spectrum of demand-side options, including but not limited to
4 conservation, load management and efficiency programs, as additional
5 sources of energy supply and/or energy demand reductions. To that end,
6 to require energy planning and fixing of rates in a manner to result in
7 the least cost mix of generation and demand-reduction measures which
8 is achievable, including consideration of appropriate rewards to utilities
9 for efficiency and conservation which decrease utility bills;
- 10 (4) To provide just and reasonable rates and charges for public utility
11 services without unjust discrimination, undue preferences or advantages,
12 or unfair or destructive competitive practices and consistent with long-
13 term management and conservation of energy resources by avoiding
14 wasteful, uneconomic and inefficient uses of energy;
- 15 (4a) To assure that facilities necessary to meet future growth can be financed
16 by the utilities operating in this State on terms which are reasonable and
17 fair to both the customers and existing investors of such utilities; and to
18 that end to authorize fixing of rates in such a manner as to result in
19 lower costs of new facilities and lower rates over the operating lives of
20 such new facilities by making provisions in the rate-making process for
21 the investment of public utilities in plants under construction;
- 22 (5) To encourage and promote harmony between public utilities, their users
23 and the environment;
- 24 (6) To foster the continued service of public utilities on a well-planned and
25 coordinated basis that is consistent with the level of energy needed for
26 the protection of public health and safety and for the promotion of the
27 general welfare as expressed in the State energy policy;
- 28 (7) To seek to adjust the rate of growth of regulated energy supply facilities
29 serving the State to the policy requirements of statewide development;
- 30 (8) To cooperate with other states and with the federal government in
31 promoting and coordinating interstate and intrastate public utility
32 service and reliability of public utility energy supply; and
- 33 (9) To facilitate the construction of facilities in and the extension of natural
34 gas service to unserved areas in order to promote the public welfare
35 throughout the State and to that end to authorize the creation of ~~an~~
36 expansion ~~fund—funds~~ for ~~each—~~ natural gas local distribution ~~company~~
37 companies to be administered under the supervision of the North
38 Carolina Utilities Commission.

39 **(b)** To these ends, therefore, authority shall be vested in the North Carolina
40 Utilities Commission to regulate public utilities generally, their rates, services and
41 operations, and their expansion in relation to long-term energy conservation and
42 management policies and statewide development requirements, and in the manner and in
43 accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be

1 construed to imply any extension of Utilities Commission regulatory jurisdiction over
2 any industry or enterprise that is not subject to the regulatory jurisdiction of said
3 Commission.

4 Because of technological changes in the equipment and facilities now available and
5 needed to provide telephone and telecommunications services, changes in regulatory
6 policies by the federal government, and changes resulting from the court-ordered
7 divestiture of the American Telephone and Telegraph Company, competitive offerings of
8 certain types of telephone and telecommunications services may be in the public interest.
9 Consequently, authority shall be vested in the North Carolina Utilities Commission to
10 allow competitive offerings of local exchange, exchange access, and long distance
11 services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with
12 the provisions of G.S. 62-110, and the Commission is further authorized after notice to
13 affected parties and hearing to deregulate or to exempt from regulation under any or all
14 provisions of this Chapter: (i) a service provided by any public utility as defined in G.S.
15 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or
16 exemption from regulation is in the public interest; or (ii) a public utility as defined in
17 G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that
18 the service or business of such public utility is competitive and that such deregulation or
19 exemption from regulation is in the public interest.

20 The policy and authority stated in this section shall be applicable to common carriers
21 of passengers by motor vehicle and their regulation by the North Carolina Utilities
22 Commission only to the extent that they are consistent with the provisions of the Bus
23 Regulatory Reform Act of 1985.

24 The North Carolina Utilities Commission may develop regulatory policies to govern
25 the provision of telecommunications services to the public which promote efficiency,
26 technological innovation, economic growth, and permit telecommunications utilities a
27 reasonable opportunity to compete in an emerging competitive environment, giving due
28 regard to consumers, stockholders, and maintenance of reasonably affordable local
29 exchange service and long distance service."

30 Section 18. Effective date. Section 14 of this act becomes effective only if
31 the voters approve the issuance of the Clean Water Bonds authorized by this act in the
32 election required by Section 7 of this act. The remaining sections of this act are effective
33 when the act becomes law, and the Utilities Commission shall begin immediately the
34 rule-making process mandated by G.S. 62-159(d), as enacted by Section 17 of this act.